



Eastern Band of Cherokee Indians
The Cherokee Court
Qualla Boundary, Cherokee, North Carolina

Instructions on Filing a Motion for An Order to Appear and Show Cause and Motion for Contempt

These instructions are for general informational purposes only. A Motion for an Order to Appear and Show Cause and Motion for Contempt should be completed only if there is a currently enforceable Order of the Cherokee Court. A Motion for an Order to Appear and Show Cause and Motion for Contempt is asking the Court for two things: (1) to order the other person to attend the hearing and explain why they have not been following the Court's order, and (2) to punish the other person (hold them in contempt) for their failure to obey and follow the Court's order.

If you are unsure whether you should file a Motion for an Order to Appear and Show Cause and Motion for Contempt or if you have any questions while filling out the form, you should talk to an attorney. Before representing yourself in Court, it is your responsibility to research and become familiar with the rules and laws. The Judge, court personnel, and staff of the Clerk of Court's Office cannot help you with filling out forms, giving you advice on your case, or helping you prepare for the hearing.

Instructions:

1. It is your responsibility to obtain the correct mailing address for the plaintiff/defendant. If necessary, you may call or visit the Clerk of Court's Office to confirm the case number and the last known address on record in the case. Enter this information in the appropriate places on the form.
2. Complete the Motion for an Order to Appear and Show Cause and Motion for Contempt. Make sure your handwriting is clear and a Judge is able to read what you have written. Be sure to explain exactly what the other party did or did not do.
3. You **MUST** attach a copy of the Order that you are alleging the person has failed to comply with to your Motion. You may politely ask the Clerk of Court's Office for a copy of the Order if you do not have one available.
4. Only sign the Motion if you are before a notary. A list of notaries in your area may be found online through the North Carolina Secretary of State's Office.
5. Bring your completed Motion (with the attached Order) to the Clerk of Court's Office when you are ready to file. The Clerk's Office will file-stamp your Motion and present it to a Judge.
6. If the Judge finds that there is probable cause that the other party has failed to comply, they will issue an Order to Appear and Show Cause. Your Motion for Contempt is still pending, and you must attend the hearing date listed on the Order.
7. If the Judge finds that there is not probable cause to issue an Order to Appear and Show Cause, they will deny your Motion in part. Your Motion for Contempt is still pending, and you must attend the hearing date listed on the Order.
8. Arrive on time for the hearing. Bring all information/evidence/witnesses with you.



Plaintiff (Name and Address)	MOTION FOR AN ORDER TO APPEAR AND SHOW CAUSE AND MOTION FOR CONTEMPT
vs.	
Defendant (Name and Address)	

I, _____ (write your name), the **Plaintiff** **Defendant** in the above action, move the Court to require the **Plaintiff** **Defendant to appear and show cause** as to why they should not be held in **contempt for failure to comply with an Order of the Court.**

1. The Order, a copy of which is attached to this motion, was entered on _____, 20 ____ in the Cherokee Court.
2. The Order remains in force and effect.
3. The Order requires the **Plaintiff** **Defendant** to: _____

4. The party willfully failed to comply with the Order in the following manner (*be as specific as possible, attach additional sheets if necessary*): _____

5. The party has the means to comply with the Order or is able to take reasonable measures to enable their compliance.
6. Therefore, I move the Court to issue an Order that requires the party named above to appear and show cause, if any, as to why they should not be held in contempt for their failure to comply with the Court's order, and for an order holding the party in contempt.

(Note: By signing below, you are certifying that you have read the motion, that you have completed it to the best of your knowledge, information, and belief after reasonable inquiry, that it is well grounded in fact and is warranted by existing law, and that it is not being brought for any improper purpose. ONLY SIGN BEFORE A NOTARY)

SWORN/AFFIRMED AND SUBSCRIBED BEFORE ME		SIGNATURE OF MOVANT
<i>My commission expires:</i>	<i>Date</i>	<i>Signature</i>
<i>Name of Notary/Official</i>	<i>Signature</i>	<i>Date</i>
<i>(Seal)</i>		